

Notice: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the Federal Register on January 24, 2001, 66 FR 7701, EPA has withdrawn the draft rulemaking described in this fact sheet from the Office of the Federal Register to give the Administrator an opportunity to review it.

United States
Environmental Protection Agency

Office of Water
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FACT SHEET

Revisions to Clean Water Act Ocean Discharge Criteria Regulations

OVERVIEW

- Coastal populations are rising rapidly, generating more pollution and increasing demands on space and resources. Offshore activities such as aquaculture, oil and gas drilling, biotechnology, and tourism are expanding into new areas, competing with boaters, fishermen, and ships transporting goods. With all of these pressures and sources of pollution, marine fish, birds, and mammals and other ocean resources are threatened. While these activities are not the only ones that impact ocean resources, they can contribute significantly to the harm of these resources.
- In recognition of the tremendous value of ocean waters and the threats they face, President William J. Clinton issued Executive Order (E.O.) 13158 on May 26, 2000, to protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the national system of marine protected areas (MPAs). Among other things, the E.O. states that to better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency, relying upon existing Clean Water Act (CWA) authorities, "shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment." Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards.

THE PROPOSED RULE

- This proposal would change the requirements for ocean discharges under CWA Section

403. Entities potentially regulated by this action are those seeking permits to discharge into ocean waters under the CWA (specifically, NPDES permits subject to CWA Section 403). These entities are currently regulated under the CWA, therefore, the number and types of entities potentially regulated by this proposal are the same as currently regulated. The proposed rule is relevant to ocean waters that are within the jurisdiction of the CWA.

- The proposal would establish a new designated use, “Healthy Ocean Waters,” for all ocean waters which do not currently have applicable CWA water quality standards in place. The ocean waters designated as Healthy Ocean Waters would be those outside of State, Territorial, and Tribal jurisdiction. The proposal also identifies 16 specific water quality criteria for trace metals, insecticides, halogenated hydrocarbons, cyanide, and chlorine that would need to be met, and requires consideration of other pollutants that may be of concern, in order to achieve a designated use of Healthy Ocean Waters.
- This proposal would also provide for the establishment of Special Ocean Sites (SOSs), which are areas within ocean waters that are of outstanding value. SOSs include critical habitat established under the Endangered Species Act, high value coral reefs, and hydrothermal vents. They may also include other unique or outstanding areas of ocean waters. In this proposal, four specific areas are proposed to be established as SOSs. They are:
 1. Flower Garden Banks off Texas
 2. Gorda Ridge-Blanco Fracture Zone off Oregon
 3. Escanaba Trough of the Gorda Ridge off California
 4. Northern Right Whale Critical Habitats off Eastern US
- No new or significantly expanded discharges would be allowed under CWA Section 403 in SOSs. (Significantly expanded discharge is defined as a discharge with a 20% or greater increase in pollutant loadings above the current permit limit.) Existing permits could be renewed as long as they meet the requirements for Healthy Ocean Waters and do not authorize a significantly expanded discharge.
- The proposal also provides a process for EPA to establish additional SOSs in the future, based either on its own periodic review or on a petition from any State, Territory, Tribe, local government, or person. Special Ocean Sites may not be established by EPA in waters under a State’s, Territory’s or Tribe’s jurisdiction unless the Governor of the State or Territory, or Tribal leader, has concurred.
- Finally, the proposal revises the requirements for issuance of ocean discharge permits. It provides that a permit can be issued for an ocean discharge only where the applicant provides enough information to make the determinations necessary to grant a permit under this proposed regulation. The existing regulations contain a provision for granting

permits with insufficient information if no irreparable harm is expected.

STAKEHOLDER INVOLVEMENT

- In response to a notice published in the Federal Register on July 12, 2000, more than 182 people participated in public meetings held by EPA to obtain public input on our planned approach to revising the regulations that implement CWA Section 403. The public meetings were held in five cities (Washington, DC; Boston, MA; Portland, OR; Los Angeles, CA; and Tampa, FL) between July 25 and August 9, 2000.
- In addition to the public meetings, EPA established an ocean discharge website and an e-mail address to receive comments. Individuals and organizations were also invited to the public meetings by e-mail. Letters were sent to coastal State water resource commissioners and Tribal councils informing them of the proposed action to revise the regulations, inviting them to the public meetings and soliciting proposals for areas to be established as Special Ocean Sites. Staff has given presentations on the proposed revisions to the regulations at various conferences and met with representatives of other Federal Agencies and numerous organizations. Fact sheets and outreach documents were developed and distributed.
- The proposed rule can be found on EPA's ocean discharge website at http://www.epa.gov/owow/oceans/protecting_oceans/ and at the Water Docket.